**Before the**
**Federal Communications Commission**
**Washington, DC 20554**

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| Petition for Rulemaking to Supplant all References in the Part 15 Rules to ANSI C63.4-2003 with the Reference to ANSI C63.4-2009 and ANSI C63.10-2009 | ) | RM- 11652 |

## REPLY COMMENTS

The American National Standards Institute Accredited Standards Committee C63® ("ANSI ASC C63") submits these reply comments in the above-captioned proceeding in response to comments filed by Information Technology Industry Council ("ITIC") regarding ANSI ASC C63's petition for rulemaking ("Petition for Rulemaking").[1] ITIC is a member of ANSI ASC C63 (as are approximately thirty (30) other organizations, government agencies, testing labs and individuals) and ITIC (as well as the other members of the main committee) participated in the drafting and approval balloting process of the standards known as ANSI C63.4-2009: "Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 KHz to 40 GHz" ("C63.4-2009 Standard") and ANSI C63.10-2009: "American National Standard for Testing Unlicensed Wireless Devices" ("C63.10-2009 Standard") which are the subject of this proceeding. ITIC states in its filing that there is currently no compelling and valid reason for requiring use of only

[1] The ITIC Comments were filed with the Commission on February 14, 2012, days after the filing deadline required under Section 1.405(a) of the Commission's Rules. In addition, ITIC did not serve a copy of its comments on ANSI ASC C63 as required by Section 1.405(a) of the Commission's Rules. In fact, the ITIC Comments were not available on the Commission's web site until February 15, 2012. To the extent the Commission considers ITIC's late-filed comments, ANSI ASC C63 understands from Commission staff that ANSI ASC C63 has until March 1, 2012 to submit these Reply Comments.

the C63.4-2009 Standard (which replaces the 2003 edition ("C63.4-2003 Standard")) and that manufacturers and importers need a reasonable transition period before they should be required to do so. As discussed below, ANSI ASC C63 disagrees with ITIC and believes that ITIC's own filing contradicts its basic premise about the need to maintain the old standard.

ITIC agrees that "the latest edition of applicable standards should be implemented with a reasonable transition period to allow manufacturers and importers to comply when there is a compelling and valid reason to do so."[2] However, ITIC does not believe such a reason exists yet. This is surprising and, actually, inconsistent with its own acknowledgement that the "items identified in Attachment A of the ANSI ASC C63 petition as 'significant problems impacting compliance testing' are significant problems."[3] If parties can continue to use the C63.4-2003 Standard (and, essentially, ignore the C63.4-2009 Standard), these "significant problems" will continue indefinitely.

In its Petition for Rulemaking, ANSI ASC C63 describes many of the compelling reasons why the Commission should update its rules including, but not limited to, the following: (1) eliminating outdated and confusing antenna calibration references; (2) aligning receiver/spectrum analyzer requirements with CISPR 16-1-1; (3) identifying precautions in using spectrum analyzers; (4) requiring test software to be part of the test report; (5) including cable insertion loss when test site temperatures significantly vary; and (6) adding test site validation above 1 GHz to name a few of the improvements noted in attachment A of the Petition for Rulemaking.

[2] ITIC Comments at p. 1.
[3] *Id.* at p. 3.

Using the C63.4-2009 and C63.10-2009 Standards will improve the repeatability, reproducibility and accuracy in performing product compliance emission measurements which is the primary goal of publishing new editions of C63 standards. The improvements incorporated into the C63.4-2009 Standard are based on input from many sources and testing experiences that ensued after the publication and implementation of the C63.4-2003 Standard. Examples of the impact and benefits of these improvements are as follows:

1) **Eliminating outdated and confusing antenna calibration reference** has the benefit of removing the reference to three different versions of the antenna calibration standards C63.5 and replacing it with the one, most current edition of the standard which is consistent with international standards (*i.e.*, C63.5-2006). As a result, antennas that were calibrated in accordance with either the 1988 or 1998 editions of the C63.5 standard may have to be recalibrated using the C63.5-2006 edition.
2) **Aligning receiver/spectrum analyzer requirements with CISPR 16-1-1** allows additional flexibility in using either ANSI C63.2 or CISPR 16-1-1 specifications where the selection of CISPR 16-1-1 is aligned with international requirements.[4]
3) **Identifying precautions in using spectrum analyzers** has the benefit of reducing misuse of the instrument and hence unknowingly introduce measurement errors.

[4] While harmonization of standards in the United States with those of the rest of the world is often beneficial, there are instances where such harmonization might not be desired. In this regard, the measurement procedures of C63.4-2009 and CISPR 22 differ in some instances. For example, measurement of conducted emission for table top products can be done in two ways in CISPR 22. However, the Commission in the past objected to this choice permitted in CISPR 22 as it may give two different emission results and hence not be consistent between techniques.

4) **Requiring test software to be part of the test report** will require that such special software should be referenced in the test report which will allow repeat testing near consistent with the original testing.

5) **Include cable insertion loss when test site temperatures significantly vary** will require monitoring of temperature effects when measurements are made at open area test sites. This will result in more accurate results. For tests where the compliance margin with respect to the limit is small, such a change may undesirably affect compliance judgments.

6) **Add test site validation above 1 GHz** is needed now as more and more compliance measurements extend above 1 GHz. The techniques introduced in the C63.4-2009 Standard will provide more repeatability and accuracy in emission measurements and hence more confidence in the test results.

ITIC also expresses concern about initiating a rulemaking proceeding because it believes that use of only the C63.4-2009 Standard would place an undue burden on manufacturers of unintentional radiators without providing certain tangible improvements.[5] This concern is misplaced. It has been over 2 years since the Commission released a Public Notice permitting the use of either the C63.4-2009 Standard or the C63.4-2003 Standard as a potential transitionary step towards requiring compliance with only the C63.4-2009 Standard.[6] In the Public Notice, the Commission advised the public that it "will consider modifying its rules to reference the new standards in a future rulemaking proceeding."[7] Manufacturers and importers should not be surprised to have the 2003 standard replaced by the C63.4-2009 Standard, the latter standard having already been approved by a large

[5] ITIC Comments at p. 2.

[6] "Office of Engineering and Technology Clarifies use of recently Published ASC C63® Measurement Standards for Compliance Testing of Intentional and Unintentional Radiators under Part 15," Public Notice, DA 09-2478 (rel. November 25, 2009) ("Public Notice").

[7] *Id.*

majority of ANSI ASC C63 members and the Commission. It is time for the Commission to initiate a rulemaking proceeding and, ultimately, revise its rules so that the C63.4-2009 Standard is the one and only standard.

ITIC identifies a handful of concerns about the content of the C63.4-2009 Standard. Significantly, ITIC – which, as indicated above, is a member of ANSI ASC C63 -- never raised many of these concerns when it participated in the ANSI ASC C63 approval process for C63.4-2009 beginning in July of 2008. As the Commission is well aware, ANSI ASC C63® goes through a comprehensive process whenever it adopts standards including an ANSI public review process where its standards can be scrutinized by anyone.[8] This is very similar to the public process followed by the Commission in rulemaking proceedings. During the ANSI process, ITIC could have raised its concerns about, for example, hybrid antennas and undated standard references, but it did not. Although hybrid antennas are an ongoing issue being considered by the committee, ANSI ASC C63 disagrees with many of ITIC's comments regarding hybrid antennas and undated standard references, and is prepared to provide additional details on these issues in the rulemaking proceeding.[9]

During the standards approval process in 2008, ITIC did express concerns about changes to the 2 dB rule. However, there was no other voting participant of ANSI ASC C63 that expressed

[8] ANSI ASC C63 follows its operating procedures which are found on its website. That is the basis for its accreditation to operate fairly for its members and to generate and publish standards. The IEEE as its secretariat also keeps track of the operation of the committee. The committee's operating procedures have specific requirements on voting, *e.g.*, the balloting group must be balanced as indicated in the procedures, the introduction of explanations and interpretations of its standards, and a variety of other processes and committee operations. While there might be suggestions to change the operating procedures of the committee in the future, such changes can only be accomplished with approval of the committee and approval of ANSI.

[9] To the extent the Commission wants to impose certain limits on the scope of the undated standard references or the hybrid antenna restriction of the C63.4-2009 Standard, the Commission has authority to do so. *See e.g.,* 47 C.F.R §15.38(a) and (b)(6).

similar concerns about this requirement. While each participant's views are important and are considered by ANSI ASC C63, the adoption of a standard is not always accomplished with unanimity. Rather, it is a consensus process whereby Commission representatives, industry members and those skilled in test techniques work together to develop appropriate emission compliance measurement procedures.

ITIC also mischaracterizes ANSI ASC C63's procedures in developing normative interpretations of its standards and the impact of such interpretations. No one individual – not even the chairman of the committee -- can unilaterally change such standards or issue interpretations and explanations as claimed by ITIC. In fact, interpretations and explanations are handled by formed subgroups of the subcommittee which maintains the standard. These interpretations and explanations serve the purpose to remove ambiguities that a reader might have noted and cite the reason for a procedure, respectively. It does not change the requirements of the standard which can only be done by vote of ANSI ASC C63.

ITIC's efforts to further delay the complete adoption of the C63.4-2009 Standard illustrate the painfully long process that standards are often subject to before they can be fully implemented. To help ensure that the Commission's Rules continue to reflect the most current C63.4 and C63.10 standards that ANSI might adopt in the future, ANSI respectfully requests that the Commission delegate authority to the Chief of the Office of Engineering and Technology ("OET") to approve new versions of these standards though a notice-and-comment rulemaking. Pursuant to Section 5(c)(1) of the Communications Act, the Commission has authority to delegate such authority.[10] Going forward,

[10] According to Section 5 of the Communications Act, "When necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business, the Commission may, by

it is imperative for the most current version to be adopted, and fully implemented, as soon as possible so that the benefits can be realized sooner, rather than later. Any steps that the Commission takes to expedite this process – such as the delegation of authority to OET -- will benefit all parties. Moreover, to the extent that the changes to the standards do not raise major compliance issues, OET should be able to accomplish the approval of such new versions through release of a public notice. The Commission has followed this approach with Section 20.19(k) of its Hearing Aid Compatibility Rules and ANSI ASC C63 urges the Commission to delegate similar rulemaking authority to OET for the standards that are the subject of its Petition for Rulemaking.

Finally, ANSI ASC C63 would like to thank the Commission for its past participation in the committee's efforts on EMC standards. ANSI ASC C63 looks forward to working with the Commission's representatives on the committee on future modifications to the standards to address issues resulting from changes in technology.

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published rule or by order, delegate any of its functions … [with certain exception] to a panel of commissioners, an individual employee, … ." 47 U.S.C. Section 155(c)(1).

For the reasons provided herein and in its Petition for Rulemaking, ANSI ASC C63 respectfully requests that the Commission initiate a rulemaking proceeding to revise Section 15.31(a)(3) (and other sections of the Commission's Rules as recommended in its Petition for Rulemaking) and to delegate authority to OET as recommended herein.

Respectfully submitted,

ANSI ASC C63

*/s/ Jay S. Newman*

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February 27, 2012

Mr. Daniel Hoolihan
Chairman, ANSI ASC C63®

## CERTIFICATE OF SERVICE

I, Brenda Beatty, a secretary to the law firm Fish & Richardson P.C., hereby certify that a true and correct copy of the foregoing Reply Comments was sent by first class-mail on February 27, 2012 to the following party:

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*/s/ Brenda Beatty*

* The address for ITIC was obtained at its web site, www.itic.org, since the ITIC Comments did not list a mailing address